

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

ROBERT PANEK,

Plaintiff(s),

*-against-*THE ROMAN CATHOLIC DIOCESE OF BROOKLYN,
NEW YORK; and ST. MARKS ROMAN CATHOLIC
CHURCH, AT SHEEPSHEAD BAY, KINGS COUNTY,
NEW YORK,

Defendant(s).

Index No. _____

Summons

Date Index No. Purchased:

October 31, 2019

To the above named Defendant(s)

THE ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW YORK
310 Prospect Park West, Brooklyn, Kings County, New York

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is one or more defendant resides in Kings County, New York
which is located in Kings County, New York

Dated: New York, NY

October 31, 2019

SIMMONS HANLY CONROY LLC

by 

Paul J. Hanly, Jr.

Attorneys for Plaintiff

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

ROBERT PANEK,

Plaintiff(s),

*-against-*THE ROMAN CATHOLIC DIOCESE OF BROOKLYN,
NEW YORK; and ST. MARKS ROMAN CATHOLIC
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Defendant(s).

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Date Index No. Purchased: _____

October 31, 2019

To the above named Defendant(s)

ST. MARKS ROMAN CATHOLIC CHURCH, AT SHEEPSHEAD BAY, KINGS COUNTY, NEW YORK
2609 East 19th Street, Brooklyn, Kings County, New York

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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Supreme Court of the State of New York
COUNTY OF KINGS

ROBERT PANEK,

Plaintiff,

v.

THE ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW
YORK; and ST. MARKS ROMAN CATHOLIC CHURCH, AT
SHEEPSHEAD BAY, KINGS COUNTY, NEW YORK,

Defendants.

Index No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, Robert Panek, by his attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against The Roman Catholic Diocese of Brooklyn, New York; and St. Marks Roman Catholic Church, At Sheepshead Bay, Kings County, New York; and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that each Defendant either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

3. Venue for this action is proper in Kings County pursuant to CPLR 503 in that one or more Defendant resides in this County.

PARTIES

4. Plaintiff Robert Panek ("Plaintiff"), is an individual residing in Deer Park, in Suffolk County, New York.

5. Defendant The Roman Catholic Diocese of Brooklyn, New York ("Diocese of Brooklyn"), is a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 310 Prospect Park West, Brooklyn, Kings County, New York. The Diocese of Brooklyn is a Roman Catholic diocese. At all relevant times, the Diocese of Brooklyn created, oversaw, supervised, managed, controlled, directed and operated parishes or churches of the Diocese of Brooklyn, New York, including during all relevant times, St. Marks Roman Catholic Church, At Sheepshead Bay, Kings County, New York, located on East 19th Street in Brooklyn, New York.

6. Defendant St. Marks Roman Catholic Church, At Sheepshead Bay, Kings County, New York ("St. Mark's"), is a Roman Catholic parish with its principal office at 2609 East 19th Street, Brooklyn, Kings County, New York. At all relevant times, the Diocese of Brooklyn created, oversaw, supervised, managed, controlled, directed and operated St Mark's.

FACTS COMMON TO ALL CLAMS

Defendants' Background and Abuse of the Plaintiff

7. During the times relevant to the allegations set forth herein, Father James E. Quinn ("Father Quinn"), was assigned by Defendant Diocese of Brooklyn to be a priest at St. Mark's. Father Quinn died in 1982.

8. Plaintiff attended school at St. Mark's from approximately 1960 through approximately 1969.

9. From at least 1960 to at least 1970, when Plaintiff was approximately 4 to 14 years of age, he, along with his family, were parishioners of St. Mark's.

10. When Plaintiff was in approximately the third and fourth grades, Plaintiff was an altar boy at St. Mark's.

11. In or around 1970, when Plaintiff was about 14 years of age, Plaintiff regularly played basketball in the gymnasium at St. Mark's. Father Quinn was a priest at St. Mark's at this time.

12. It was under these circumstances that Plaintiff came to trust and be under the supervision of Father Quinn, who used his position of trust and authority to gain access to Plaintiff.

13. In or around 1970, when Plaintiff was approximately 14 years of age, Father Quinn used his position at St. Mark's to gain access to the then minor Plaintiff and to sexually assault, sexually abuse and/or have sexual contact with Plaintiff in violation of the laws of the State of New York.

Defendants' Responsibility for the Abuse Committed by Father Quinn

14. At all times material hereto, Father Quinn was under the management, supervision, employ, direction, and/or control of Defendants.

15. Through his position at, within, or for Defendants Diocese of Brooklyn and St. Mark's, Father Quinn was put in contact with Plaintiff.

16. Father Quinn used his position at, within, or for Defendants Diocese of Brooklyn and St. Mark's, and the implicit representations made by them about Father Quinn's character that accompanied that position, to gain the trust and confidence of Plaintiff, and to create opportunities to be alone with, and sexually abuse, sexually assault, and/or have sexual contact with Plaintiff.

17. Defendants Diocese of Brooklyn and St. Mark's had the duty to reasonably manage, supervise, control, and/or direct priests serving at St. Mark's, and specifically, had a duty not to aid pedophiles, such as Father Quinn, by assigning, maintaining and/or appointing them to positions with access to minors.

18. Defendants Diocese of Brooklyn and St. Mark's knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Quinn who sexually abused Plaintiff.

19. Defendants Diocese of Brooklyn and St. Mark's had a duty to Plaintiff to properly supervise their agents to ensure that said agents did not use their positions with Defendants Diocese of Brooklyn and St. Mark's as a tool for grooming and assaulting

vulnerable children. Defendants Diocese of Brooklyn and St. Mark's knew or should have known that Father Quinn used his position at St. Mark's to sexually abuse minor children, including the Plaintiff.

Consequences of the Abuse

20. Plaintiff suffered personal, physical, and psychological injuries and damages as a result of Father Quinn's actions, as well as other damages related thereto, as a result of the childhood sexual abuse Plaintiff sustained.

21. As a direct result of the Defendants' conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Father Quinn's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm he suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

22. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

23. Defendants owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Father Quinn in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Quinn did not use his assigned position to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York.

24. Defendant Diocese of Brooklyn at all relevant times represented that the parishes of the Diocese of Brooklyn were safe places for minors to attend, and that its priests were individuals to whom it was safe to entrust the care of minor children. Defendant Diocese of Brooklyn entered into an express and/or implied duty to safely treat Plaintiff and assumed the duty to protect and care for him.

25. The sexual abuse of children by adults, including priests, is a foreseeable result of negligence.

26. Father Quinn sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff when Plaintiff was a minor in New York.

27. Defendants Diocese of Brooklyn and St. Mark's negligently hired, retained, directed, and supervised Father Quinn, as they knew or should have known that Father Quinn posed a threat of sexual abuse to minors.

28. Defendants Diocese of Brooklyn and St. Mark's knew or should have known of Father Quinn's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.

29. Defendants Diocese of Brooklyn and St. Mark's were negligent in failing to properly supervise Father Quinn.

30. At all times material hereto, Defendants' actions were willful, wanton, malicious, negligent, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

31. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

32. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION
Negligence/Gross Negligence

33. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

34. Defendants knew, or were negligent in not knowing, that Father Quinn posed a threat of sexual abuse to children.

35. The acts of Father Quinn described hereinabove were undertaken, and/or enabled by, during the course, and/or within the scope of his employment, appointment, and/or agency with the Defendants.

36. Defendants owed Plaintiff, at the relevant times a minor, a duty to protect him from Father Quinn's sexual deviancy, both prior to and/or subsequent to Father Quinn's misconduct.

37. Defendants' willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damages set forth herein at length.

38. Defendants:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of Father Quinn;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and
- d. allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

39. At all times material hereto, with regard to the allegations contained herein, Father Quinn was under the direct supervision, employ and/or control of Defendants.

40. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, negligent, and outrageous in their disregard for the rights and safety of Plaintiff.

41. As a direct and/or indirect result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

42. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to the Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION
Breach of Fiduciary Duty

43. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

44. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants. This relationship is based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the agent or servant of the Defendants. Through the position to which Father Quinn was assigned by the Defendants, Father Quinn was put in direct contact with Plaintiff, then a minor. This entrustment of the Plaintiff to the care and supervision of Defendants, while the Plaintiff was a minor child, required the Defendants to assume a fiduciary relationship and to act in the best interests of the Plaintiff, as well as to protect him while he was a minor and vulnerable child.

45. Pursuant to their fiduciary relationship, Defendants were entrusted with the well-being, care, and safety of Plaintiff.

46. Pursuant to their fiduciary relationship, Defendants assumed a duty to act in the best interests of Plaintiff.

47. Defendants breached their fiduciary duties to Plaintiff.

48. At all times material hereto, Defendants' actions and/or inactions were willful, wanton, malicious, reckless, negligent, and outrageous in their disregard for the rights and safety of Plaintiff.

49. As a direct result of said conduct, Plaintiff has suffered and will continue to suffer injuries and damages described herein.

50. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION

Breach of Non-Delegable Duty

51. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

52. Plaintiff, when he was a minor, was placed in the care of all of the Defendants for the purposes of, *inter alia*, providing Plaintiff with a safe environment to engage in age appropriate youth activities. There existed a non-delegable duty of trust between Plaintiff and Defendants.

53. Plaintiff was a vulnerable child when placed within the care of the Defendants.

54. As a consequence, the Defendants were in the best position to learn of Father Quinn's inappropriate conduct with other minors and to prevent Father Quinn's sexual abuse of Plaintiff.

55. By virtue of the fact that Plaintiff was sexually abused as a minor entrusted to the care of the Defendants, Defendants breached their non-delegable duty to Plaintiff.

56. At all times material hereto Father Quinn was under the direct supervision, employ and/or control of the defendants.

57. As a direct result of said conduct, Plaintiff has suffered and will continue to

suffer injuries and damages described herein.

58. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

59. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

60. As described aforesaid, the actions of Defendants, including their agents, servants and/or employees, were conducted in a negligent and/or grossly negligent manner.

61. Defendants' actions endangered Plaintiff's safety and caused him to fear for his own safety.

62. As a direct and proximate result of Defendants' actions which included, but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered and will continue to suffer the severe injuries and damages described herein, including, but not limited to, mental and emotional distress.

63. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

SIXTH CAUSE OF ACTION

Breach of Duty *in Loco Parentis*

64. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

65. Plaintiff when he was a minor was entrusted to the control of Father Quinn for the purposes of *inter alia*, providing Plaintiff with appropriate guidance and an opportunity to enjoy educational and youth activities under responsible adult

supervision. Defendants owe – and owed – a duty to minors entrusted to them to act *in loco parentis* and to prevent foreseeable injuries.

66. Defendants breached their duty to act *in loco parentis*.

67. At all times material hereto, said Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

68. As a direct result of Defendants' conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

69. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

WHEREFORE Plaintiff, demands judgment against the Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proved at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: October 31, 2019
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr. _____
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